

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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Before the court is Daniel Gambino Martinez's Motion to Compel Discovery (#162). The court has considered the motion (#162), plaintiff's Response (#164), and Martinez's Objection to Plaintiff's Response in Opposition to Motion to Compel Discvoery, which the court treats as a Reply (#167).

Martinez’s Motion to Compel (#162) must be denied because, among other things, he is not a party to this action. While Martinez has filed a Motion for Leave of Court for Intervention of Right (#134), the court has not yet ruled on the motion. Oral arguments on the Motion to Intervene (#134) are scheduled for October 15, 2010. Minute Order (#174). Filing of a motion to intervene does not automatically make one a party to a lawsuit. The court must first determine whether intervention is proper. Until the court rules on his motion to intervene, Martinez is not a party to this action. Because only parties may engage in discovery, *see* Fed.R.Civ.P. 26(b)(1) (“Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense . . .”), Martinez may not request or attempt to compel discovery unless and until the court grants his motion to intervene or he otherwise becomes a party to this action.

Accordingly, and for good cause shown,

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1 IT IS ORDERED that Daniel Gambino Martinez's Motion to Compel Discovery (#162) is
2 DENIED.

3 DATED this 15th day of September, 2010.

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6 **LAWRENCE R. LEAVITT**
7 **UNITED STATES MAGISTRATE JUDGE**

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